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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

8 KARLENE K. PETITT,

9 Plaintiff,

10 v.

11 AIR LINE PILOTS ASSOCIATION,

12 Defendant.

13 CASE NO. 2:20-cv-1569 RSL

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15 **DEFENDANT AIR LINE PILOTS  
ASSOCIATION'S MOTION TO  
MODIFY SCHEDULING ORDER  
AND CONSOLIDATE CASES**

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NOTE ON MOTION CALENDAR:  
January 4, 2021

**INTRODUCTION AND RELIEF SOUGHT**

Defendant Air Line Pilots Association (“ALPA”) respectfully moves to modify the Court’s Order of December 9, 2020 (Dkt. 7) (“Scheduling Order”) and to consolidate the instant, second-filed action with earlier, very similar litigation filed by *pro se* Plaintiff Karlene Petitt against ALPA. As outlined below, ALPA requested Plaintiff’s agreement to the relief sought here but Plaintiff disagrees with much of it. The basis for these requests, and the requested modifications, are as follows.

**PROCEDURAL BACKGROUND**

There are two similar cases involving the Parties pending before this Court. Both cases concern Plaintiff’s allegations that ALPA breached its duty of fair representation (“DFR”) to her, while Plaintiff adds a claim in the instant case (the “DFR>Title VII Case”) that ALPA violated Title VII of the Civil Rights Act of 1964.

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CONSOLIDATE CASES – 1  
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1        1. The DFR case

2        Plaintiff filed her Complaint in the DFR Case on July 13, 2020, and filed an Amended  
 3 Complaint on August 10, 2020. It asserts that ALPA breached its DFR to her based on similar  
 4 allegations as those in the subsequently-filed DFR>Title VII Case. ALPA moved to dismiss the  
 5 DFR Case and briefing on that motion was completed on December 9, 2020.

6        On September 25, 2020, the Court granted the Parties' joint motion in the DFR Case to  
 7 vacate all deadlines for the Rule 26(f) conferences and reports and the Rule 26(a)(1) initial  
 8 disclosures (Dkt. 13 in Case No. 2:120-cv-01093-RSL). That Order directed the Parties to confer  
 9 concerning the schedule for the DFR Case within 14 days of the issuance of the Court's ruling on  
 10 ALPA's Motion to Dismiss and to file a proposed revised scheduling motion/report to the Court  
 11 within seven days thereafter.

12        2. The Instant DFR>Title VII case

13        Plaintiff filed the instant case on October 23, 2020, and it was transferred to Judge Lasnik  
 14 on December 3, 2020 (Dkt. 6). The Complaint and process have not yet been served in the  
 15 instant case. Counsel for ALPA entered a Notice of Appearance on December 2, 2020, which  
 16 expressly preserved all objections as to improper service and jurisdiction. *See Lewellen v.*  
*Morley*, 909 F.2d 1073, 1077 (7th Cir. 1990) ("filing of 'appearance form' does not relieve  
 17 plaintiff from executing proper service of process upon defendants"); *Hudson v. Christian*, 1994  
 18 WL 315471, at \*1 (D.C. Cir. 1994) ("Appellant's assertion that counsel's entry of appearance in  
 19 this court constitutes service on appellee is without merit."); *Kiro v. Moore*, 229 F.R.D. 228,  
 20 230-31 (D.N.M. 2005) (similar). *See also Benny v. Pipes*, 799 F.2d 489, 492-93 (9th Cir. 1986)  
 21 (defendants' motions to extend time to file answer to suit did not constitute general appearance  
 22 or waive requirement for valid service of process).

23        Plaintiff has requested that ALPA waive service of the Complaint in the instant case and  
 24 made the latest such request on December 16, 2020. ALPA has not agreed to waive service  
 25 because it believes that this case should be consolidated with Case No. 2:20-cv-1093-RSL,  
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1 discussed below (the “DFR Case”), which would obviate the need for service and forestall the  
 2 automatic, subsequently-triggered deadlines.

3 On December 9, 2020, the Court issued the Scheduling Order in the instant case setting  
 4 forth the following deadlines: Rule 26(f) Conference by December 23, 2020; Initial Disclosures  
 5 pursuant to Rule 26(a)(1) on December 30, 2020; and Combined Joint Status Report and  
 6 Discovery Plan Required by Rules 26(f) and Local Rule 26(f) by January 6, 2021.

7 **ARGUMENT**

8 In light of the foregoing, ALPA respectfully submits that proceeding here in a similar  
 9 manner as in the DFR Case -- postponing the foregoing conference, report, and initial disclosures  
 10 -- will most efficiently advance this litigation while minimizing costs and burdens on the Parties.

11 *See* Introduction to Civil Rules of United States District Court for the Western District of  
 12 Washington, at 1 (directing parties to consider “limiting discovery and phasing discovery and  
 13 motions to bring on for early resolution potentially dispositive issues”). On December 16, 2020,  
 14 Plaintiff expressed her agreement to “extend the scheduling order regarding the Title VII case  
 15 until the motion to dismiss the DFR is resolved.” In any event, given the absence of service of  
 16 process on ALPA in the instant case, there is no basis to proceed with the scheduled disclosures  
 17 and conferences.

18 ALPA also respectfully requests that the Court consolidate the DFR Case and the instant  
 19 case, with Plaintiff filing a new, amended complaint in the consolidated case that covers all of  
 20 her claims. The factual allegations in the lengthy (50+ pages) complaints in the two cases are  
 21 materially identical, with Plaintiff seeking to interject new claims in her opposition to ALPA’s  
 22 motion to dismiss the DFR Case. *See* Dkt. 22 in Case No. 2:20-cv-01093-RSL (ALPA’s Reply  
 23 Brief in the DFR Case), at 3-4, 7, 8, 9, 12. Consolidating the two cases (along with the filing of  
 24 a consolidated, amended complaint by Plaintiff) will allow the Court to resolve all of Plaintiff’s  
 25 claims in a single proceeding. In contrast, and as matters presently stand, the Court would be  
 26 addressing the fully-briefed motion to dismiss in the DFR Case and then (if that motion is  
 27 granted), a similar motion in the Title VII case, followed by a potentially amended complaint (in

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1 one or both of these cases or in a consolidated case) that adds the apparent claims made in  
2 Plaintiff's opposition to ALPA's motion to dismiss the DFR Case.

3 Plaintiff previously expressed agreement to consolidate the cases, writing in her  
4 November 20 opposition to ALPA's motion to dismiss her Amended Complaint in the DFR  
5 Case: "Plaintiff requests the leave of this court to incorporate the gender-specific allegation  
6 contained in her Title VII action into this DFR litigation, and/or that the Court consolidate the  
7 Title VII action with the instant lawsuit." Dkt. 19 in Case No. 2:120-cv-01093-RSL, at 15.  
8 However, Plaintiff since has taken a different position, most recently writing to ALPA counsel  
9 on December 16: "***I do not agree to your motion to combine the cases.***" (emphasis in original)

10 In sum, ALPA respectfully requests that the Court order as follows: (a) ALPA need not  
11 file any response to the Complaint in the instant case except as set forth pursuant to the order  
12 resulting from the Parties' conference set forth in paragraph (d) below; (b) all deadlines for the  
13 Rule 26(f) conferences and reports and Rule 26(a)(1) initial disclosures be vacated in the instant  
14 case; (c) the consolidation of the instant case with the DFR Case and that Plaintiff file an  
15 amended complaint in the consolidated case on or before February 1, 2021; and (d) the Parties to  
16 confer with respect to a Scheduling Order within 14 days of the filing of the amended complaint  
17 in the consolidated action and to file a proposed schedule with the Court within seven days  
18 thereafter.

19 All of the foregoing new proposed deadlines and orders are set forth in the accompanying  
20 draft order.

21 RESPECTFULLY SUBMITTED this 16th day of December 2020.

22 s/Dmitri Iglitzin

23 Dmitri Iglitzin, WWSA No. 17673

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